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**TREASURY DEPARTMENT.**

Bureau of Internal Revenue.

REGULATIONS 93 RELATING TO THE CARRIERS' TAX, EMPLOYEES' TAX, AND EMPLOYEES' REPRESENTATIVES' TAX UNDER THE ACT APPROVED AUGUST 29, 1935 (49 STAT. 974)

CHAPTER I. DEFINITIONS

**ARTICLE 1. Definitions of miscellaneous terms.**—When used in these regulations, the term—

(a) *Act*, unless otherwise indicated, means the Act entitled "An Act To levy an exise tax upon carriers and an income tax upon their employees, and for other purposes", approved August 29, 1935 (Public. No. 400, 74th Congress; 49 Stat. 974).

(b) *Railway Labor Act* means the Act approved May 20, 1926 (44 Stat. 577), as amended by the Act approved June 21, 1934 (48 Stat. 1185).

(c) *Tax* means the carriers' tax, the employees' tax, or the representatives' tax.

(d) *Carriers' tax* means the tax imposed by section 4 of the Act.

(e) *Employees' tax* means the tax imposed by section 2 of the Act.

(f) *Representatives' tax* means the tax imposed by section 7 of the Act.

(g) *Commissioner* means the Commissioner of Internal Revenue.

(h) *Collector* means the collector of internal revenue.

(i) *Person* includes an individual, a corporation, a partnership, a trust or estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization or group, through or by means of which any business, financial operation, or venture is carried on. It includes a guardian, trustee, executor, administrator, committee, receiver, assignee for the benefit of creditors, conservator, or any person acting in a fiduciary capacity.

(j) *United States* when used in a geographical sense means the States, Alaska, Hawaii, and the District of Columbia.

*Section 1 (a) of the act*

(a) The term "carrier" means any express company, sleeping-car company, or carrier by railroad, subject to the Interstate Commerce Act, and any company which may be directly or indirectly owned or controlled thereby or under common control therewith, and which operates any equipment or facilities or performs any service (other than trucking service) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of and operating the business of any such carrier: *Provided, however,* That the term "carrier" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation,

but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Commissioner of Internal Revenue or upon complaint of any party interested to determine after hearing whether any line operated by electric power falls within the terms of this proviso.

**ART. 2. Definition of "carrier".**—When used in these regulations, the term *carrier* means—

(a) Any express company, sleeping-car company, or carrier by railroad, subject to the Interstate Commerce Act.

(b) Any company which—

(1) is directly or indirectly owned or controlled by or under common control with a carrier as defined in paragraph (a) of this article, and

(2) operates any equipment or facilities or performs any service (other than trucking service) in connection with—

(A) the transportation of passengers or property by railroad, or

(B) the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad.

*Example:* Carrier A legally controls more than 50 per cent of the outstanding, voting capital stock of company B, which company B, in turn, legally controls more than 50 per cent of the outstanding, voting capital stock of company C. Companies B and C are "directly or indirectly" controlled by carrier A.

(c) Any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of and operating the business of any carrier as defined in paragraph (a) or (b) of this article.

The term as defined in paragraph (a) or (b) of this article does not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation which on August 29, 1935, or thereafter is operated by any other motive power. In the case of a foreign corporation the term has reference to such corporation only with respect to its business done in the United States.

*Section 1 (b), (c), (e), and (f) of the act*

(b) The term "employee" means (1) each person who at or after the enactment hereof is in the service of a carrier, and (2) each officer or other official representative of an "employee organization", herein called "representative", who before or after the effective date has performed service for a carrier, who is duly designated and authorized to represent employees under and in accordance with the Railway Labor Act, and who, during, or immediately following employment by a carrier, was or is engaged in such representative service in behalf of such employees.

(c) A person shall be deemed to be in the service of a carrier whenever he may be subject to its continuing author-



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ity to supervise and direct the manner of rendition of his service, for which service he receives compensation.

(e) The term "effective date" means March 1, 1936.

(f) The term "enactment" means the date on which this Act may be approved by the President or be finally passed.

**ART. 3. Definition of "employee".**—When used in these regulations, the term *employee* means a person who at any time after August 28, 1935, performs services for a carrier in an employment as defined in article 4. However, the relationship between the person who performs such services and the carrier must, as to those services, be the legal relationship of employer and employee. The words "employ", "employer", and "employee" are to be taken in their ordinary meaning. In any doubtful case, the question of whether such relationship exists will be determined upon examination of the facts.

An individual is in the employ of a carrier, and the relationship of employer and employee exists, if he is subject to the continuing authority of the carrier to supervise and direct the manner of rendition of his services and if he receives remuneration for such services. An employee as such is subject to the will and control of the carrier not only

as to *what* shall be done but *how* it shall be done. It is not necessary that the carrier actually direct or control the manner in which the services are performed; it is sufficient if the carrier has the right to do so. The right to discharge an individual is also an important factor indicating that the carrier possessing that right is an employer and the individual an employee. Other factors characteristic of an employer but not necessarily present in every case are the furnishing of tools and the furnishing of a place to work, to the individual who performs the services. In general, if an individual is subject to the control or direction of a carrier merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee.

Generally, an individual performing services as a physician, lawyer, dentist, veterinarian, contractor, subcontractor, public stenographer, or auctioneer, who follows an independent profession, trade, or business in which he offers his services to the public, is an independent contractor. Such individual, however, may be an employee, and in any doubtful case the determination will be made as provided in this article.

If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, co-adventurer, agent, or independent contractor. If such relationship exists, the fact that services are performed on a part-time basis is immaterial. The measurement, method, or designation of remuneration is immaterial if the individual is in fact an employee. The age of the individual is immaterial. The place where the contract for services is entered into and the citizenship or residence of the individual are immaterial.

The Act makes no distinction between classes or grades of employees. Thus, superintendents, managers, and other superior employees are employees within the meaning of the term. An officer of a corporation is an employee of the corporation, but a director, as such, is not. A director may be an employee of the corporation, however, if he performs services for the corporation other than those required by attendance at and participation in meetings of the board of directors.

**ART. 4. Definition of "employment".**—When used in these regulations the term "employment" means service of whatever nature (whether in interstate, intrastate, or foreign commerce) performed by an employee for a carrier after August 28, 1935.

**ART. 5. Definition of "representative".**—When used in these regulations, the term *representative* means an individual whose duties after August 28, 1935, as a duly elected or designated officer, or other official of an employee organization include representing employees under and in accordance with the Railway Labor Act. No individual, however, may be a representative unless (or until), while in the employ of a carrier or immediately thereafter, he engaged (or engages) in representing employees.

An individual need not be exclusively engaged in so representing employees in order to be a representative. It is sufficient if his duties include such representative service. The age of the individual is immaterial. The length of the period of service as a representative is immaterial. The services may be on a part-time basis.

An individual who is a representative and who is also employed by a carrier or other person or otherwise engaged is a representative only with respect to services performed as an officer or other official representative of the employee organization.

### Section 1 (d) of the act

(d) The term "compensation" means any form of money remuneration for active service, received by an employee from a carrier, including salaries and commissions, but shall not include free transportation nor any payment received on account of sickness, disability, or other form of personal relief.

*Section 2 of the act*

Sec. 2. In addition to other taxes, there shall be levied, collected, and paid upon the income of every employee, 3½ per centum of the compensation of such employee (except a representative) not in excess of \$300 per month, received by him after the effective date.

*Section 4 of the act*

Sec. 4. In addition to other taxes, every carrier shall pay an excise tax of 3½ per centum of the compensation not in excess of \$300 per month paid by it to its employees after the effective date.

*Section 7 of the act*

Sec. 7. In addition to other taxes, there shall be levied, collected, and paid upon the compensation of each employees' representative received by such representative an income tax of 7 per centum annually upon that portion of the compensation of such employees' representative not in excess of \$300 per month. The compensation of a representative for the purpose of ascertaining the tax thereon shall be determined according to such rules and regulations as the Commissioner of Internal Revenue shall deem just and reasonable and as near as may be shall be the same compensation as if the representative were still in the employ of the last former carrier.

ART. 6. *Definition of "compensation".—(a) Compensation in the case of an employee.—(1)* When used in these regulations, the term *compensation*, in the case of an employee, means all remuneration received for employment in money or in something which the employee may use in lieu of money. For example, an employee receives \$150 in money and a grocery order for \$50. His total compensation would be \$200. If, however, the remuneration for employment performed during any calendar month by an employee for a carrier exceeds \$300, the term does not include that part of such remuneration in excess of the first \$300 thereof. The term does not include free transportation furnished by a carrier to an employee (see, however, paragraph (3) of subdivision (d) of this article).

(2) If an employee receives a sum representing remuneration for employment performed for a carrier in two or more calendar months and if the facts necessitate making a determination of the part of such sum which is compensation by reason of the \$300 limitation provided in paragraph (1) of this subdivision, the remuneration for employment performed during each calendar month is that part of such sum which is attributable to employment performed in such month.

(b) *Compensation in the case of a representative.—*When used in these regulations, the term *compensation*, in the case of a representative, means all remuneration received by him for services performed as an officer or other official of the employee organization. If the remuneration of the representative for services performed during any calendar month exceeds \$300, the term does not include that part of such remuneration which is in excess of the first \$300 thereof. If, however, the representative establishes to the satisfaction of the Commissioner that he would have received a lesser amount of remuneration from his last former carrier employer had he remained continuously in the employ of such carrier, the portion of the remuneration received by him as representative, not in excess of such lesser amount, shall be the representative's compensation. For any period during which an individual is both an employee and a representative, his compensation as an employee shall be determined as provided in subdivision (a) of this article, and his compensation as a representative shall be determined as provided in this subdivision (b).

(c) *Items included as compensation.—*The term *compensation* includes, among other things (both with respect to employees, and, in analogous situations, with respect to representatives)—

(1) Salaries, wages, commissions, fees, drawing accounts, bonuses, and any other remuneration payments. The name by which remuneration is designated, the amount, and the

basis upon which it is paid are immaterial. It may be paid on the basis of piece work, a percentage of profits, daily, hourly, weekly, monthly, annually, or on any other basis.

(2) Any payment made to an employee of so-called dismissal wages or the payment of his regular wages notwithstanding absences from work. Pension payments, workmen's compensation payments, and any payments of like character received on account of sickness, disability, or other form of personal relief are not included.

(3) Any amount paid to an employee as allowance or reimbursement for traveling or other expenses incurred in the business of the carrier only to the extent of the excess of such amount over such expenses actually incurred and accounted for by the employee.

(4) Generally, premiums paid by a carrier on a policy of life insurance covering the life of an employee if the carrier is not a beneficiary under the policy. However, premiums paid by a carrier on policies of group life insurance covering the lives of its employees are not compensation if the employee has no option to take the amount of the premiums instead of accepting the insurance and has no equity in the policy (such as the right of assignment or the right to the surrender value on termination of his employment).

(5) Deductions by a carrier from remuneration of an employee. Amounts deducted from the remuneration of an employee constitute compensation paid to the employee at the time of such deduction.

(6) Payments made by a carrier into a stock bonus, pension, or profit-sharing fund if such payments inure to the exclusive benefit of the employee and may be withdrawn by the employee at any time, or upon resignation or dismissal of if the contract for services requires such payment as part of the remuneration. Whether or not under other circumstances such payments constitute compensation depends upon the particular facts of each case.

## CHAPTER II. EMPLOYEES' TAX

*Section 2 of the act*

Sec. 2. In addition to other taxes, there shall be levied, collected, and paid upon the income of every employee, 3½ per centum of the compensation of such employee (except a representative) not in excess of \$300 per month, received by him after the effective date.

ART. 201. *Rate and measure of employees' tax.—*The employees' tax is imposed at the rate of 3½ per cent on all compensation received by an employee during the period March 2, 1936, to February 28, 1937, both dates inclusive, with respect to employment performed after August 28, 1935. (For definitions of "employee", "employment", and "compensation", see articles 3, 4, and 6 (a), respectively; see also articles 203 and 609.)

ART. 202. *When employees' tax attaches.—*The employees' tax attaches at the time that the compensation is either actually or constructively received by the employee. Compensation is received when it is credited to the account of or set apart for an employee so that it may be drawn upon by him at any time although not then actually reduced to possession. To constitute receipt in such a case the compensation must be credited or set apart to the employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and must be made available to him so that it may be drawn at any time, and its receipt brought within his own control and disposition. See article 302, relating to the time the carriers' tax attaches.

*Section 3 (a) of the act*

Sec. 3 (a). The tax imposed by section 2 of this Act shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the compensation of the employee as and when paid. Every employer required so to deduct the tax is hereby made liable for the payment of such tax and is hereby indemnified against the claims and demands of any person for the amount of any such payment made by such employer.

*Section 607 of the Revenue Act of 1934*

Sec. 607. Whenever any person is required to collect or withhold any internal-revenue tax from any other person and to pay such tax over to the United States, the amount of tax so collected or withheld shall be held to be a special fund in trust for the United States. The amount of such fund shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes from which such fund arose.

ART. 203. *Collection of, and liability for, employees' tax.*—The carrier shall collect the employees' tax from each employee, with respect to compensation for employment performed for such carrier by such employee, by deducting or causing to be deducted the amount of such tax from such compensation when paid, either actually or constructively. The carrier is liable for such tax whether or not collected from the employee. Until collected from him the employee is also liable for the employees' tax with respect to compensation paid for employment performed by him. Any such tax collected by or on behalf of a carrier is a special fund in trust for the United States. The carrier is indemnified against the claims and demands of any person for the amount of any payment of such tax made by the carrier to the United States.

For provisions relating to returns, payment, and adjustment of employees' tax, see Chapter IV. For provisions relating to interest and penalties, see Chapter VI.

## CHAPTER III. CARRIERS' TAX

*Section 4 of the act*

Sec. 4. In addition to other taxes, every carrier shall pay an excise tax of 3½ per centum of the compensation not in excess of \$300 per month paid by it to its employees after the effective date.

ART. 301. *Rate and measure of carriers' tax.*—The carriers' tax is imposed at the rate of 3½ per cent and is measured by the total of all compensation paid by the carrier to its employees during the period March 2, 1936, to February 28, 1937, both dates inclusive, with respect to employment performed after August 28, 1935. (For definition of "carrier", "employee", and "compensation", see articles 2, 3, and 6 (a), respectively; also article 609.)

ART. 302. *When carriers' tax attaches.*—The carriers' tax attaches when compensation is paid, either actually or constructively, by the carrier (or on its behalf) to its employees. See article 202 relating to the time the employees' tax attaches.

ART. 303. *Liability for carriers' tax.*—Liability for the carriers' tax attaches to the carrier with respect to the compensation paid to its employees for employment performed for the carrier. For provisions relating to returns, payment, and adjustment of the carriers' tax, see Chapter IV. For provisions relating to interest and penalties, see Chapter VI.

## CHAPTER IV. RETURNS, PAYMENT, AND ADJUSTMENT OF EMPLOYEES' TAX AND CARRIERS' TAX

*Section 8 (b) and (c) of the act*

(b) Such taxes shall be collected and paid quarterly in such manner and under such conditions not inconsistent with this Act as may be prescribed by the Commissioner of Internal Revenue.

(c) All provisions of law, including penalties, applicable with respect to any tax imposed by section 600 or section 800 of the Revenue Act of 1926, and the provisions of section 607 of the Revenue Act of 1934, insofar as applicable and not inconsistent with the provisions of this Act, shall be applicable with respect to the taxes imposed by this Act.

*Sections 602 and 1102 (a) and (b) of the Revenue Act of 1926, made applicable by section 8 (c) of the act*

Sec. 602. Every person liable for any tax \* \* \* shall make \* \* \* returns under oath \* \* \* and pay the taxes imposed by such section to the collector for the district in which is located the principal place of business,

Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. \* \* \*

Sec. 1102. (a) Every person liable to any tax imposed by this Act, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(b) Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records as the Commissioner deems sufficient to show whether or not such person is liable to tax.

ART. 401. *Quarterly returns of employees' tax and carriers' tax.*—For the period beginning March 2, 1936, and ending May 31, 1936, and for each subsequent period of three calendar months ending August 31, 1936, November 30, 1936, and February 28, 1937, each carrier shall prepare a return, in quadruplicate, on the prescribed form.

ART. 402. *Information returns of employees' tax and carriers' tax.*—For the period beginning March 2, 1936, and ending February 28, 1937, each carrier shall file an information return on the prescribed form.

ART. 403. *Instructions for completing and filing returns.*—

(a) *In general.*—Each return required by articles 401 and 402 shall be filled out in accordance with the instructions contained thereon and the regulations applicable thereto. Copies of the prescribed forms may be obtained from collectors. Each return shall cover the compensation paid, the carriers' tax and employees' tax which attaches, and the adjustments of tax made, during the period covered by the return. Each carrier is required to file its own return. Consolidated returns of parent and subsidiary corporations are not permitted.

(b) *Execution of returns.*—The original and all copies of each return shall be signed and verified under oath or affirmation by—

- (1) the individual, if the carrier is an individual;
- (2) the president, vice-president, or other principal officer, if the carrier is a corporation; or
- (3) a responsible and duly authorized member having knowledge of its affairs, if the carrier is a partnership or other unincorporated organization.

(c) *Place of filing.*—The original and first two copies of each quarterly return required by article 401, and the information return required by article 402, shall be filed with the collector for the district in which is located the principal place of business of the carrier, or if the carrier has no principal place of business in the United States, with the collector at Baltimore, Maryland. The remaining copy of the quarterly return shall be retained by the carrier and made a part of its records.

(d) *Time for filing.*—Each quarterly return required by article 401 shall be filed on or before the last day of the first month following the period for which it is made. Each information return required by article 402 shall be filed on or before the last day of the second month following the period for which it is made. If such last day falls on Sunday or a legal holiday, the return may be filed on the next following business day. If placed in the mails, the return shall be posted in ample time to reach the collector's office, under ordinary handling of the mails, on or before the date on which the return is required to be filed. As to additions to the tax in the case of failure to file the return within the prescribed time, see article 605.

ART. 404. *Payment of employees' and carriers' tax.*—The employees' tax and the carriers' tax required to be reported on the quarterly return under article 401 are due and payable to the collector, without any assessment by the Commissioner or notice by the collector, at the time fixed for filing such return. For provisions relating to interest, see

article 603, and for provisions relating to penalties, see articles 604 and 605 and section 1114 of the Revenue Act of 1926, made applicable by section 8 (c) of the Act.

*Section 3 (b) of the act*

(b) If more or less than the correct amount of tax imposed by section 2 is paid with respect to any compensation payment, then, under regulations made under this Act by the Commissioner of Internal Revenue, proper adjustments, with respect both to the tax and the amount to be deducted, shall be made, without interest, in connection with subsequent wage payments to the same employee by the same employer.

**ART. 405. Adjustment of employees' tax.—(a) Overcollections.**—If a carrier collects from any employee more than the correct amount of employees' tax with respect to any compensation payment, and if the overcollection comes to the attention of the carrier after the quarterly return covering such payment is filed, the carrier shall adjust the overcollection by deducting the amount thereof from the amount of employees' tax which attaches with respect to a subsequent compensation payment by such carrier to such employee. In such case the carrier shall take credit for the amount of the overcollection on the return in which such subsequent compensation payment is reported. If an overcollection of employees' tax comes to the attention of the carrier prior to the time the quarterly return covering such payment is filed, the carrier shall immediately adjust the overcollection with the employee.

No overcollection shall be adjusted under this subdivision unless the return on which credit therefor is taken is filed within four years after the date on which the tax was paid to the collector.

(b) *Undercollections.*—If by reason of a mistake in computing the tax a carrier collects from any employee less than the correct amount of employees' tax with respect to any compensation payment, the carrier shall adjust the undercollection by deducting from a subsequent remuneration payment by such carrier to such employee, in addition to the amount of employees' tax with respect to such subsequent payment, the amount which the carrier failed to collect. The amount so collected shall be reported on the return for the period in which the adjustment is made.

If a carrier collects the correct amount of employees' tax with respect to any compensation payment, but underpays such tax to a collector, the amount of the underpayment shall be paid in accordance with the provisions of section 6 of the Act. See article 601, relating to collection of underpayments.

No undercollection shall be adjusted under this subdivision unless the deduction required by this subdivision is made within one year after the date of the compensation payment with respect to which the undercollection of tax was made.

(c) *Time for making adjustments.*—When any undercollection or overcollection comes to the attention of the carrier in any manner, the carrier shall make the adjustment, if permissible under this article, in connection with the first remuneration payment made thereafter.

(d) *Interest.*—No interest shall be allowed or collected with respect to the amount of any overcollection or undercollection adjusted under this article.

*Section 5 of the act*

**SEC. 5.** If more or less than the correct amount of the tax imposed by section 4 is paid, with respect to any compensation payment, then, under regulations made by the Commissioner of Internal Revenue, proper adjustments with respect to the tax shall be made, without interest, in connection with subsequent excise-tax payments made by the same employer.

**ART. 406. Adjustment of carriers' tax.—(a) Overpayments.**—If any carrier pays more than the correct amount of carriers' tax with respect to any compensation payment, the carrier may adjust the overpayment by taking credit in the amount of the overpayment on any return which is filed within four years after the date on which the tax was paid.

(b) *Underpayments.*—If by reason of a mistake in computing the tax any carrier pays less than the correct amount of carriers' tax with respect to any compensation payment, the carrier may adjust the underpayment (1) by reporting the amount thereof on any return filed within one year after the date of the compensation payment, and (2) by paying such amount at the time such return is filed.

(c) *Interest.*—No interest shall be allowed or collected with respect to the amount of any overpayment or underpayment adjusted under this article.

CHAPTER V. EMPLOYEES' REPRESENTATIVES' TAX

*Section 7 of the act*

**SEC. 7.** In addition to other taxes, there shall be levied, collected, and paid upon the compensation of each employees' representative received by such representative an income tax of 7 per centum annually upon that portion of the compensation of such employees' representative not in excess of \$300 per month. The compensation of a representative for the purpose of ascertaining the tax thereon shall be determined according to such rules and regulations as the Commissioner of Internal Revenue shall deem just and reasonable and as near as may be shall be the same compensation as if the representative were still in the employ of the last former carrier.

**ART. 501. Rate and measure of representatives' tax.**—The representatives' tax is imposed at the rate of 7 per cent on all compensation received by a representative during the period March 2, 1936, to February 28, 1937, both dates inclusive, with respect to services performed after August 28, 1935. (For definitions of "representative" and "compensation", see articles 5 and 6 (b), respectively; see also article 609.)

**ART. 502. When representatives' tax attaches.**—The representatives' tax attaches with respect to compensation at the time such compensation is either actually or constructively received.

**ART. 503. Liability for representatives' tax.**—The representative is liable for the representatives' tax.

*Section 8 (b) and (c) of the act*

(b) Such taxes shall be collected and paid quarterly in such manner and under such conditions not inconsistent with this Act as may be prescribed by the Commissioner of Internal Revenue.

(c) All provisions of law, including penalties, applicable with respect to any tax imposed by section 600 or section 800 of the Revenue Act of 1926, and the provisions of section 607 of the Revenue Act of 1934, insofar as applicable and not inconsistent with the provisions of this Act, shall be applicable with respect to the taxes imposed by this Act.

*Section 602 of the Revenue Act of 1926 made applicable by section 8 (c) of the act*

**SEC. 602.** Every person liable for any tax \* \* \* shall make \* \* \* returns under oath \* \* \* and pay the taxes imposed by such section to the collector for the district in which is located the principal place of business. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return \* \* \*.

*Section 1102 (a) and (b) of the Revenue Act of 1926, made applicable by section 8 (c) of the act*

**SEC. 1102.** (a) Every person liable to any tax imposed by this Act, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(b) Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or

keep such records as the Commissioner deems sufficient to show whether or not such person is liable to tax.

ART. 504. *Quarterly returns of representatives' tax.*—For the period beginning March 2, 1936, and ending May 31, 1936, and for each subsequent period of three calendar months ending August 31, 1936, November 30, 1936, and February 28, 1937, each representative shall prepare a return, in quadruplicate, on the prescribed form. Copies of this form may be obtained from any collector. Each return shall be filled out in accordance with the instructions contained thereon and the regulations applicable thereto. The original and all copies of each return shall be signed and verified under oath or affirmation by the representative.

The original and first two copies of each return shall be filed with the collector for the district in which is located the legal residence or principal place of business of the representative, or if the representative has no legal residence or principal place of business in the United States, with the collector at Baltimore, Maryland. The remaining copy of the return shall be retained by the representative and made a part of his records. Each return shall be filed on or before the last day of the first month following the period for which it is made. If such last day falls on Sunday or a legal holiday, the return may be filed on the next following business day. If placed in the mails, the return shall be posted in ample time to reach the collector's office, under ordinary handling of the mails, on or before the date on which the return is required to be filed. As to additions to the tax in the case of failure to file the return within the prescribed time, see article 605.

ART. 505. *Payment of representatives' tax.*—The representatives' tax is due and payable to the collector, without any assessment by the Commissioner or notice by the collector, at the time fixed for filing the quarterly return. For provisions relating to interest, see article 603, and for provisions relating to penalties, see articles 604 and 605 and section 1114 of the Revenue Act of 1926, made applicable by section 8 (c) of the Act.

#### CHAPTER VI. MISCELLANEOUS PROVISIONS

##### Collection and Payment of Taxes

###### Section 8 (a) and (c) of the act

SEC. 8. (a) The taxes imposed by this Act shall be collected by the Commissioner of Internal Revenue and shall be paid into the Treasury of the United States as internal-revenue receipts. \* \* \*

(c) All provisions of law, including penalties, applicable with respect to any tax imposed by section 600 or section 800 of the Revenue Act of 1926, and the provisions of section 607 of the Revenue Act of 1934, insofar as applicable and not inconsistent with the provisions of this Act, shall be applicable with respect to the taxes imposed by this Act.

##### Underpayments

###### Section 6 of the act

SEC. 6. If \* \* \* less than the correct amount of the tax imposed by sections 2 or 4 of this Act is paid or deducted with respect to any compensation payment and the \* \* \* underpayment of the tax cannot be adjusted under sections 3 or 5, \* \* \* the amount of the underpayment shall be collected in such manner and at such times (subject to the statute of limitations properly applicable thereto) as may be prescribed by regulations under this Act as made by the Commissioner of Internal Revenue.

ART. 601. *Collection of underpayments of tax.*—If any employees' tax or carriers' tax is not paid when due, and is not adjusted under article 405 or 406, the tax shall be assessed against and collected from the carrier. Any representatives' tax not paid when due shall be assessed against and collected from the representative. The Commissioner may also assess unpaid employees' tax against the employee. In such case, such tax may be collected from the carrier or from the employee. See article 603, relating to interest, and article 604, relating to penalty and interest for failure to pay the tax after notice and demand.

##### Jeopardy assessment

###### Section 1105 of the Revenue Act of 1932, as amended by section 510 of the Revenue Act of 1934

SEC. 1105. (a) If the Commissioner believes that the collection of any tax (other than income tax, estate tax, and gift tax) under any provision of the internal-revenue laws will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest and penalties the assessment of which is provided for by law). Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the collector for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful without regard to the period prescribed in section 3187 of the Revised Statutes, as amended.

(b) The collection of the whole or any part of the amount of such assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of the amount collection of which is stayed, at the time at which, but for this section, such amount would be due.

ART. 602. *Jeopardy assessment.*—Whenever, in the opinion of the collector, it becomes necessary to protect the interests of the Government by effecting an immediate return and collection of the tax, the case should be promptly reported to the Commissioner by telegram or letter. The communication should recite the full name and address of the person involved, the amount of taxes due, the period involved, and a statement as to the reason for the recommendation, which will enable the Commissioner to immediately assess the tax, together with all penalties and interest due. Upon assessment such tax, penalty, and interest shall become immediately due and payable, whereupon the collector will issue immediately a notice and demand for payment of the tax, penalty, and interest.

The collection of the whole or any part of the amount of the jeopardy assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount with respect to which the stay is desired and with such sureties as the collector deems necessary, conditioned upon the payment of the amount, collection of which is stayed, at the time at which, but for this section, such amount would be due. In lieu of surety or sureties the taxpayer may deposit with the collector bonds or notes of the United States, or bonds or notes fully guaranteed by the United States, having a par value not less than the amount of the bond required to be furnished, together with an agreement authorizing the collector in case of default to collect or sell such bonds or notes so deposited.

Upon refusal to pay, or failure to pay or give bond, the collector will proceed immediately to collect the tax, penalty, and interest by distraint without regard to the period described in section 3187 of the United States Revised Statutes, as amended.

##### Interest

###### Section 8 (a) of the act

SEC. 8. (a) \* \* \* If the taxes are not paid when due, there shall be added as part of the tax (except in the case of adjustments made in accord with the provisions of this Act) interest at the rate of 6 per centum per annum, or for any part of a month, from the date the tax became due until paid.

###### Section 404 of the Revenue Act of 1935

SEC. 404. Notwithstanding any provision of law to the contrary, interest accruing during any period of time after the date of the enactment of this Act upon any internal-revenue tax (including amounts assessed or collected as a part thereof) or customs duty, not paid when due, shall be at the rate of 6 per centum per annum.

ART. 603. *Interest.*—The due date of any tax for the purpose of computing interest is the last day on which the re-

turn covering such tax may be filed under these regulations. If the tax is not paid to the collector on or before the due date and is not adjusted under article 405 or 406, there shall be added as part of the tax interest at the rate of 6 per cent per year. Such interest accrues from (and including) the day after the due date through the date of payment to the collector or, if the tax is assessed prior to such payment, through the date on which the certificate of assessment is signed by the Commissioner. For provisions relating to interest after assessment, see article 604.

#### Penalties

##### Section 3184 of United States Revised Statutes

SEC. 3184. Where it is not otherwise provided, the collector shall in person or by deputy, within ten days after receiving any list of taxes from the Commissioner of Internal Revenue, give notice to each person liable to pay any taxes stated therein, to be left at his dwelling or usual place of business, or to be sent by mail, stating the amount of such taxes and demanding payment thereof. If such person does not pay the taxes within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said taxes with a penalty of five per centum additional upon the amount of taxes, and interest at the rate of one per centum a month.

ART. 604. *Penalty and interest for failure to pay an assessment after notice and demand.*—(a) In case the taxpayer fails to pay to the collector the entire amount of any assessment of tax, penalty, or interest within a period of 10 days after the date of issuance of the form for first notice and demand, based on such assessment, there accrues under section 3184 of the United States Revised Statutes (except as provided in subdivision (b) of this article) a penalty of 5 per cent of the amount of such assessment remaining unpaid at the expiration of such period. Interest also accrues at the rate of 6 per cent per year on such unpaid amount from (and including) the eleventh day after the date of issuance of such form through the date of payment. If such unpaid amount is settled by partial payments, however, interest is computed through the date of the first payment after the 10 day period, and from the following day through the date of the next payment, and in like manner when subsequent payments are made until the assessment is paid in full. See article 603 for provisions relating to interest prior to assessment.

(b) If, within 10 days after the date of issuance of the form for first notice and demand, a claim for abatement of any amount of the assessment is filed with the collector who issued the form, the 5 per cent penalty does not attach with respect to such amount unless the claim is rejected. If the claim is rejected in whole or in part and the amount rejected is not paid, the collector shall issue notice and demand for such amount. If payment is not made within ten days after the date the collector issues the notice and demand, the five per cent penalty attaches with respect to the amount rejected. The filing of the claim does not stay the running of interest, which accrues on such amount from (and including) the eleventh day after the date of issuance of the notice and demand referred to in subdivision (a) through the date of payment.

##### Section 3176 of the United States Revised Statutes, as amended by section 1103 of the Revenue Act of 1926 and section 619 (d) of the Revenue Act of 1928

SEC. 3176. \* \* \* In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner of Internal Revenue or the collector in pursuance of law, the Commissioner shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax. In case a false or fraudulent return or list is willfully made, the Commissioner shall add to the tax 50 per centum of its amount.

The amount so added to any tax shall be collected at the same time and in the same manner and as part of the tax

unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax.

##### Section 406 of the Revenue Act of 1935

SEC. 406. In the case of a failure to make and file an internal-revenue tax return required by law, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, if the last date so prescribed for filing the return is after the date of the enactment of this Act, if a 25 per centum addition to the tax is prescribed by existing law, then there shall be added to the tax, in lieu of such 25 per centum: 5 per centum if the failure is for not more than 30 days, with an additional 5 per centum for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 per centum in the aggregate.

ART. 605. *Penalties for delinquent or false returns.*—(a) *Delinquent returns.*—Unless the person required to file a return establishes to the satisfaction of the Commissioner that a reasonable cause exists for the delinquency, the failure to file the return on or before the last date prescribed therefor by these regulations (in this article referred to as the "due date") causes to accrue a penalty equal to the following percentage of the tax:

- (1) 5 per cent, if the return is filed on or before the 30th day after the due date;
- (2) 10 per cent, if the return is filed after such 30th day and on or before the 60th day after the due date;
- (3) 15 per cent, if the return is filed after such 60th day and on or before the 90th day after the due date;
- (4) 20 per cent, if the return is filed after such 90th day and on or before the 120th day after the due date; or
- (5) 25 per cent, if the return is filed after such 120th day or if the return is never filed by the person required to file it.

In computing the period of delinquency all Sundays and holidays after the due date are counted.

Every person filing a return after the due date shall securely attach to the return his statement under oath, in duplicate, setting out in detail the reason for his delinquency. The collector shall forward the statement to the Commissioner with the return. The Commissioner will determine whether a penalty has been incurred and, if so, make the assessment.

(b) *False returns.*—If a false or fraudulent return is willfully made, the penalty under section 3176 of the United States Revised Statutes, as amended, is 50 per cent of the total tax due for the entire period involved including any tax previously paid.

#### Additional Penalties

##### Section 1114 of the Revenue Act of 1926, made applicable by section 8 (c) of the act

(a) Any person required under this Act to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this Act, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(b) Any person required under this Act to collect, account for, and pay over any tax imposed by this Act, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this Act or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than \$10,000; or imprisoned for not more than five years, or both, together with the costs of prosecution.

(c) Any person who willfully aids or assists in, or procures, counsels, or advises, the preparation or presentation under,

or in connection with any matter arising under, the internal-revenue laws, of a false or fraudulent return, affidavit, claim, or document, shall (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document) be guilty of a felony and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(d) Any person who willfully fails to pay, collect, or truthfully account for and pay over, any tax imposed by Titles IV, V, VI, VII, VIII, and IX, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax evaded, or not paid, collected or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected. No penalty shall be assessed under this subdivision for any offense for which a penalty may be assessed under authority of section 3176 of the Revised Statutes, as amended, or for any offense for which a penalty has been recovered under section 3256 of the Revised Statutes.

(e) Any person in possession of property, or rights to property, subject to distraint, upon which a levy has been made, shall, upon demand by the collector or deputy collector making such levy, surrender such property or rights to such collector or deputy, unless such property or right is, at the time of such demand, subject to an attachment or execution under any judicial process. Any person who fails or refuses to so surrender any of such property or rights shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes (including penalties and interest) for the collection of which such levy has been made, together with costs and interest from the date of such levy.

(f) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

#### *Section 10 of the act*

SEC. 10. Any person or any carrier which shall willfully fail or refuse to make any report in accordance with this Act required by the Commissioner of Internal Revenue in the administration of this Act, or which shall knowingly make any false or fraudulent statement or report in response to any report or statement required by this Act shall be punished on conviction by a fine of not less than \$100 nor more than \$10,000.

#### *Section 35 of the Criminal Code of the United States, as Amended*

SEC. 35. Whoever shall make or cause to be made or present or cause to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, or any department thereof, or any corporation in which the United States of America is a stockholder, any claim upon or against the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, knowing such claim to be false, fictitious, or fraudulent; or whoever shall knowingly and willfully falsify or conceal or cover up by any trick, scheme, or device a material fact, or make or cause to be made any false or fraudulent statements or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry, in any matter within the jurisdiction of any department or agency of the United States or of any corporation in which the United States of America is a stockholder; \* \* \* or whoever shall enter into any agreement, combination, or conspiracy to defraud the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, by obtaining or aiding to obtain

the payment or allowance of any false or fraudulent claim; \* \* \* shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. \* \* \*

#### *Section 8 (d) of the act*

(d) In the payment of any tax under this Act a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

ART. 606. *When fractional part of cent may be disregarded.*—In the payment of taxes a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent. Fractional parts of a cent should not be disregarded in the computation of taxes.

#### *Credit and Refund*

#### *Section 6 of the act*

SEC. 6. If more \* \* \* than the correct amount of the tax imposed by sections 2 or 4 of this Act is paid or deducted with respect to any compensation payment and the overpayment \* \* \* of the tax cannot be adjusted under sections 3 or 5, the amount of the overpayment shall be refunded \* \* \* in such manner and at such times (subject to the statute of limitations properly applicable thereto) as may be prescribed by regulations under this Act as made by the Commissioner of Internal Revenue.

#### *Section 1120 of the Revenue Act of 1926 made applicable by section 8 (c) of the act*

SEC. 1120. In the case of any overpayment or overcollection of any tax imposed by Title \* \* \* VI, the person making such overpayment or overcollection may take credit therefor against taxes due upon any monthly return, and shall make refund of any excessive amount collected by him upon proper application by the person entitled thereto.

#### *Section 3220 of United States Revised Statutes, as amended by section 1111 of the Revenue Act of 1926 and section 619 (b) of the Revenue Act of 1928*

SEC. 3220. Except as otherwise provided \* \* \* the Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount or in any manner wrongfully collected; \* \* \*

#### *Section 607 of the Revenue Act of 1928*

SEC. 607. Any tax (or any interest, penalty, additional amount, or addition to such tax) assessed or paid (whether before or after the enactment of this Act) after the expiration of the period of limitation properly applicable thereto shall be considered an overpayment and shall be credited or refunded to the taxpayer if claim therefor is filed within the period of limitation for filing such claim.

#### *Section 608 of the Revenue Act of 1928, as amended by section 509 of the Revenue Act of 1934*

SEC. 608. A refund of any portion of an internal-revenue tax (or any interest, penalty, additional amount, or addition to such tax) made after the enactment of this Act, shall be considered erroneous—

(a) if made after the expiration of the period of limitation for filing claim therefor, unless within such period claim was filed; or

(b) in the case of a claim filed within the proper time and disallowed by the Commissioner after the enactment of this Act, if the refund was made after the expiration of the period of limitation for filing suit, unless—

(1) within such period suit was begun by the taxpayer, or

(2) within such period, the taxpayer and the Commissioner agreed in writing to suspend the running of the statute of limitations for filing suit from the date of the agreement to the date of final decision in one or more

named cases then pending before the United States Board of Tax Appeals or the courts. If such agreement has been entered into, the running of such statute of limitations shall be suspended in accordance with the terms of the agreement.

*Section 609 of the Revenue Act of 1928*

SEC. 609. (a) *Credit against barred deficiency.*—Any credit against a liability in respect of any taxable year shall be void if any payment in respect of such liability would be considered an overpayment under section 607.

(b) *Credit of barred overpayment.*—A credit of an overpayment in respect of any tax shall be void if a refund of such overpayment would be considered erroneous under section 608.

(c) *Application of section.*—The provisions of this section shall apply to any credit made before or after the enactment of this Act.

*Section 3228 (a) of United States Revised Statutes, as amended by section 1112 of the Revenue Act of 1926 and section 619 (c) of the Revenue Act of 1928 and section 1106 of the Revenue Act of 1932*

SEC. 3228. (a) All claims for the refunding or crediting of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected must, \* \* \* be presented to the Commissioner of Internal Revenue within four years next after the payment of such tax, penalty, or sum. The amount of the refund \* \* \* shall not exceed the portion of the tax, penalty, or sum paid during the four years immediately preceding the filing of the claim, or if no claim was filed, then during the four years immediately preceding the allowance of the refund.

ART. 607. *Refund and credit of taxes erroneously collected.*—(a) Any tax (including interest or penalty, if any), which has been erroneously, illegally, or otherwise wrongfully collected, may be refunded to the person who paid the tax to the collector. A claim for refund must be made on the prescribed form in accordance with the instructions printed thereon and in accordance with these regulations. Copies of the prescribed form may be obtained from any collector. All grounds in detail and all facts in support of the claim must be set forth under oath.

(b) If any person makes a return showing a greater amount of tax than is actually due, and pays such tax, he may file a claim for refund as provided for in subdivision (a) of this article, or he may take credit for such overpayment upon any quarterly return subsequently filed. The return upon which the credit is taken must have securely attached thereto a statement under oath, setting forth in detail the grounds and facts relied upon in support of the claim.

(c) In the case of any claim filed by a carrier for refund or credit of employees' tax, the carrier shall include in the claim for refund or in the return upon which credit is taken, as the case may be, a statement that it has repaid the tax to the employee or has secured the written consent of such employee to allowance of the refund or credit. The written consent of the employee shall accompany the claim or the return as the case may be.

(d) No refund or credit shall be allowed under this article if the overpayment can be adjusted under the provisions contained in article 405 or 406.

(e) No refund or credit shall be allowed under this article unless claim therefor is filed with the collector within four years after the payment of the tax, penalty, or interest.

**Records**

*Section 1102 (a) and (b) of the Revenue Act of 1926 made applicable by section 8 (c) of the act*

(a) Every person liable to any tax imposed by this Act, or for the collection thereof, shall keep such records, render

under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(b) Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records as the Commissioner deems sufficient to show whether or not such person is liable to tax.

*Section 1104 of the Revenue Act of 1926, as amended by section 618 of the Revenue Act of 1928, made applicable by section 8 (c) of the act*

SEC. 1104. The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

ART. 608. *Records.*—(a) *In general.*—Every carrier and every representative shall keep accurate records of all compensation with respect to which he becomes liable for the tax. While not mandatory, it is advisable for each employee to keep permanent accurate records showing the name of each carrier for which he performs services as an employee, the duration of employment by each, the amount of each remuneration payment (including employees' tax) and the date of its receipt, and the amount of employees' tax deducted from each such payment.

(b) *Records of carriers.*—The records of each carrier liable for carriers' tax shall show with respect to each employee, for the calendar month of March 1936, and for each calendar month thereafter—

- (1) the name and address of the employee,
- (2) the occupation of the employee (in accordance with the classification adopted by the Interstate Commerce Commission),
- (3) the total amount (including any sum withheld therefrom as tax or for any other reason) and date of each payment of remuneration to the employee and the period of services covered by such payment,
- (4) the amount of such remuneration payment which is compensation as defined in article 6, and
- (5) the amount of employees' tax withheld or collected with respect to such payment, and, if collected at a time other than the time such payment was made, the date collected.

If the total remuneration payment (paragraph (3), above) and the amount thereof which is taxable (paragraph (4), above) are not equal, the reason therefor shall be made a matter of record. Accurate records of the details of every adjustment of employees' tax or carriers' tax shall also be kept, including the date and amount of each adjustment.

(c) *Records of representatives.*—The records of each representative liable for representatives' tax shall show for the calendar month of March 1936, and for each calendar month thereafter—

- (1) the name of each employee organization employing him as a representative,
- (2) the amount of remuneration received from each employee organization for his services as representative, the date received and the period of services covered by such remuneration, and
- (3) if the remuneration which would have been received from the representative's last former carrier employer is less than the amount of remuneration received as such representative, (a) the name and address of such last former car-

rier, and (b) the amount of remuneration which he would have received from such carrier.

(d) *Records of overpayments.*—Every person claiming refund or credit of any overpayment of tax, penalty, or interest shall keep a complete and detailed record of the overpayment.

(e) *Form of records.*—No particular form is prescribed for keeping the records required by this article. Each person required to keep records shall use such forms and systems of accounting as will enable the Commissioner to ascertain whether the taxes for which such person is liable are correctly computed and paid.

(f) *Place and period for keeping records.*—All records required by these regulations shall be kept, by the person required to keep them, at some convenient and safe location accessible to internal revenue officers. Such records shall at all times be open for inspection by such officers. Records required by subdivisions (b) and (c) of this article shall be maintained for a period of at least four years after the date the tax to which they relate becomes due. Records required by subdivision (d) of this article (including records required by subdivisions (b) and (c)) relating to a claim shall be maintained for a period of at least four years after the date the claim is filed.

#### Termination of Taxes

##### Section 12 of the act

SEC. 12. The taxes imposed by this Act shall not apply to any compensation received or paid after February 28, 1937.

ART. 609. *Termination of taxes.*—The taxes imposed by the Act shall not apply to compensation received or paid after February 28, 1937, even though earned prior to such date.

#### Administering of Oaths

##### Section 3165 of the United States Revised Statutes, as amended

SEC. 3165. Every collector, deputy collector, internal-revenue agent, and internal-revenue officer assigned to duty under an internal-revenue agent, is authorized to administer oaths and to take evidence touching any part of the administration of the internal-revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

##### Section 1102 (d) of the Revenue Act of 1926, made applicable by section 8 (c) of the act

(d) Any oath or affirmation required by the provisions of this Act or regulations made under authority thereof may be administered by any officer authorized to administer oaths for general purposes by the law of the United States or of any State, Territory, or possession of the United States, wherein such oath or affirmation is administered, or by any consular officer of the United States.

#### Retroactivity of Regulations

##### Section 1108 (a) of the Revenue Act of 1926, as amended by section 605 of the Revenue Act of 1928 and section 506 of the Revenue Act of 1934

(a) The Secretary, or the Commissioner with the approval of the Secretary, may prescribe the extent, if any, to which any ruling, regulation, or Treasury Decision, relating to the internal revenue laws, shall be applied without retroactive effect.

#### Authority for Regulations

##### Section 1101 of the Revenue Act of 1926, made applicable by section 8 (c) of the act

SEC. 1101. The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this Act.

In pursuance of the provisions of the Act and of section 1101 of the Revenue Act of 1926, made applicable by section

8 (c) of the Act, the foregoing regulations are hereby prescribed.

CHAS. T. RUSSELL,

Acting Commissioner of Internal Revenue.

Approved March 11, 1936.

WAYNE C. TAYLOR,

Acting Secretary of the Treasury.

[Filed, March 16, 1936; 11:50 a. m.]

## DEPARTMENT OF AGRICULTURE

### Agricultural Adjustment Administration.

[Puerto Rico Sugar Order No. 4, issued March 14, 1936]

#### ALLOTMENT OF THE QUOTA FOR PUERTO RICO

ORDER MADE BY THE SECRETARY OF AGRICULTURE UNDER THE AGRICULTURAL ADJUSTMENT ACT

#### UNITED STATES DEPARTMENT OF AGRICULTURE, OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by Section 8a of the Agricultural Adjustment Act, approved May 12, 1933 (hereinafter called the "act"), as amended, I, H. A. Wallace, Secretary of Agriculture, do hereby make, issue, publish, and give public notice of this order, which shall have the force and effect of law and shall continue in force and effect until amended or superseded by orders or regulations hereafter made by the Secretary of Agriculture.

#### I

Whereas General Sugar Quota Regulations, Series 3, establishes for Puerto Rico a quota of 801,297 short tons of sugar, raw value, and forbids processors, persons engaged in the handling of sugar, and others, during the calendar year 1936, from importing into continental United States for consumption, or which shall be consumed therein, and/or from transporting to, or receiving in, continental United States for consumption therein, and/or from processing in any area to which the Act has been made applicable, any sugar from Puerto Rico in excess of such quota, and

Whereas I hereby find that as of January 1, 1936, the surplus stocks of sugar carried over from the 1933-1934 crop year, or substitutions thereof made during the calendar year 1935, amounted to approximately 129,000 short tons of sugar, raw value, and

Whereas I hereby find that unless the production and marketing of sugar in Puerto Rico is regulated, the amounts of the aforesaid surplus stocks of sugar, together with the amounts of sugar production allotments issued pursuant to the provisions of Puerto Rico Sugarcane Administrative Ruling No. 3, will be in excess of the said quota established for Puerto Rico for consumption in continental United States as aforesaid, and of the estimated market demand during the calendar year 1936 for sugar for consumption outside of continental United States.

#### II

Now, therefore, upon the basis of the foregoing findings and pursuant to the foregoing authority, it is hereby ordered:

1. That there shall be deducted 28,000 short tons of sugar, raw value, from the quota of sugar established for Puerto Rico for the calendar year 1936, in General Sugar Quota Regulations, Series 3, which deduction represents the portion of the surplus stocks of sugar carried over from the 1933-1934 crop year, or substitutions thereof made during the calendar year 1935, which may be marketed in continental United States during the calendar year 1936.

2. That there is hereby set aside an unallotted reserve of 7,098 tons of sugar, raw value, for future allotment.

3. That the portion of the quota of 801,297 tons of sugar, raw value, established for Puerto Rico for the calendar year 1936, in General Sugar Quota Regulations, Series 3, which shall be filled from current processing is 766,199 tons of sugar, raw value.

4. That there is hereby allotted to the following processors for the calendar year 1936 the amounts of sugar which appear opposite their respective names:

Name of processor	Allotment from processing	Allotment from surplus stocks	Marketing allotment
1. Aguirre	92,179	3,452	95,641
2. Cambalache	32,756	1,271	34,027
3. Canovanas	28,627	1,222	29,849
4. Carmen	13,368	550	13,918
5. Coloso	30,514	1,120	31,634
6. Constancia-Toa	18,328	768	19,096
7. El Ejemplo	11,644	594	12,248
8. Eureka	10,153	4	10,157
9. Fajardo	55,725	2,460	58,185
10. Guanica	88,773	4,032	92,805
11. Guamani	10,531	408	10,939
12. Herminia	1,716	.....	1,716
13. Igualdad	10,571	.....	10,571
14. Juanita	13,526	75	13,601
15. Lafayette	27,229	1,093	28,322
16. Plazuela-Los Canos	33,497	1,167	34,664
17. Monserrate	11,041	64	11,105
18. Peliejas	1,134	.....	1,134
19. Plata	9,550	.....	9,550
20. Playa Grande	7,100	.....	7,100
21. Rochelaise	7,890	378	8,268
22. Roig	24,764	1,021	25,785
23. Rufina	25,024	1,030	26,054
24. San Vicente	27,763	968	28,731
25. Santa Barbara	2,434	.....	2,434
26. Solier	4,867	2	4,869
27. Vannina	12,425	517	12,942
28. Victoria	14,793	583	15,376
29. Eastern Sugar Associates	75,916	3,349	79,265
30. San Francisco	5,371	204	5,575
31. Caribe	6,070	163	6,233
32. Constancia-Ponce	7,705	.....	7,705
33. Mercedita	30,672	1,138	31,810
34. Boca Chica	13,543	507	14,050
Reserve for future allotment	766,199	28,000	794,199
			7,098
			801,297

5. That during the calendar year 1936 the above-named processors are hereby forbidden from importing into continental United States for consumption, or which shall be consumed therein, any sugar from Puerto Rico in excess of the marketing allotments set forth in paragraph 4 hereof.

6. That allotments fixed herein shall not be assigned or transferred without the approval of the Secretary or his duly appointed agent.

7. That whenever any person is aggrieved because of any allotment made to him, or to any other person, or because he has received no allotment, or because of any provision herein, he may make application in writing under oath to the Secretary for the adjustment of any allotment, or for the issuance of an allotment, or for the modification of any provision herein, which application shall fully set forth his complaint and the facts in support thereof. If, upon the basis of such application, the Secretary has reason to believe that the complaint is well-founded, he shall give due notice and opportunity for interested persons to be heard on such application. Upon the basis of the record obtained at such hearing, the Secretary may grant or deny, in whole or in part, said application.

If any provision herein is declared invalid, in whole or in part, the validity of the remaining provisions shall not be affected thereby, and if any provision is declared inapplicable to any person or circumstance, the applicability of such provision to any other person or circumstance shall not be affected thereby.

The Secretary may by designation in writing name any person, including any officer or employee of the government or any bureau, or division in the Department of Agriculture, to act as his agent or agencies in exercising any power herein vested in him.

In testimony whereof, H. A. Wallace, Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 14th day of March 1936.

(Signed) H. A. WALLACE,  
Secretary of Agriculture.

[Filed, March 16, 1936; 10:14 a. m.]

NOTICE OF HEARING WITH RESPECT TO PROPOSED AMENDMENTS TO THE ORDER REGULATING THE HANDLING OF ORANGES AND GRAPEFRUIT GROWN IN THE STATES OF CALIFORNIA AND ARIZONA

Whereas, under the Agricultural Adjustment Act, as amended, notice of hearing is required in connection with proposed amendments to an order, and the General Regulations, Series A, No. 1, of the Agricultural Adjustment Administration provide for such notice; and

Whereas, the Growers Advisory Committee, established by the order regulating the handling of oranges and grapefruit grown in the States of California and Arizona, has submitted certain amendments to the said order and requested that a hearing be held on the said amendments to the said order;

Now, therefore, pursuant to the said act and the said general regulations, notice is hereby given of a public hearing to be held in Assembly Hall, California State Building, Los Angeles, California, on March 20, 1936, at 9:30 a. m., and thereafter until concluded, at which time interested parties will be heard with reference to the proposed amendments to the order regulating the handling of oranges and grapefruit grown in the States of California and Arizona, to be executed and issued under the said act.

The proposed amendments provide that: (a) overshipments during any given week be allowed to the extent of 10 percent of that week's allotment, or one car, whichever is the greater; instead of 5 percent of the weekly allotment, or one car, whichever is the greater; and (b) exchanges may be made of allotments issued for fruit grown in separate districts under the order or as between allotments issued under the license issued by the State of California and those issued pursuant to the provisions of the said order.

Copies of the proposed amendments to the said order may be inspected in, or procured from, the Office of the Hearing Clerk, Room 4725, South Building, United States Department of Agriculture, Washington, D. C.

H. A. WALLACE, Secretary.

Dated, March 16, 1936.

Washington, D. C.

[Filed, March 16, 1936; 12:50 p. m.]

INTERSTATE COMMERCE COMMISSION.

MARCH 12, 1936.

NOTICE

To all motor carriers subject to sections 216, 217, and 218 of the Motor Carrier Act, 1935:

It has come to the attention of the Commission that common carriers of property by motor vehicle which operate entirely within the boundaries of a single State are of the view that they are not required to file tariffs with this Commission. However, if these carriers are engaging in interstate or foreign commerce they must file tariffs. For example, if, at a transfer point, they receive from or deliver to another motor carrier, through shipments originating in or destined to points in another State, they are engaging in interstate commerce, and they must file tariffs containing the rates and charges which would apply on such shipments from or to the transfer point.

Under the provisions of Section 217 of the Motor Carrier Act, 1935, common carriers of property by motor vehicle are required to publish, and file with the Commission, tariffs stating rates, charges, and classifications for the transportation of property in interstate and foreign commerce.

Attention is directed to the Commission's order of February 21, 1936, requiring that tariffs or schedules of all rates, fares, and charges of motor carriers subject to Sections 216, 217, and 218 of the Motor Carrier Act, 1935, be published, filed, and posted on or before March 23, 1936, to be effective not earlier nor later than April 1, 1936. Such tariffs or schedules must be published, filed, and posted and kept open for public inspection in the form and manner prescribed by

Tariff Circulars MF No. 1 and MP No. 2, which were made effective January 8, 1936.

[SEAL]

GEORGE B. MCGINTY, *Secretary.*

[Filed, March 14, 1936; 12:28 p. m.]

MARCH 12, 1936.

NOTICE

To all motor carriers subject to sections 216, 217, and 218 of the Motor Carrier Act, 1935:

The Commission has observed with interest the development of the "agency" method of publishing tariffs for motor carriers engaged in the transportation of property. Where an association or bureau is set up for the purpose of rendering a genuine service to motor carriers and provides a "publishing agent" the carriers may be relieved of a great deal of the detailed work and expense incidental to the preparation of their tariffs by simply granting proper authority to him to act in their stead. No doubt in many instances this method will be found to be desirable. However, it should be understood that membership in such an association or bureau is not required by the Commission.

Each carrier may initiate and file its own rates with the Commission without having to join such organizations.

It should also be understood that under the Motor Carrier Act, 1935, whenever a carrier joins an association or bureau such carrier is still at liberty to establish joint through rates with nonmembers, and that because of such membership the carrier does not forfeit the privilege of participating in joint tariffs with "nonmember" carriers which desire to file their own tariffs.

Membership in an association or bureau does not give the member carrier the right to refuse to accept shipments tendered, at proper transfer point, by a carrier not a member of its association. When an originating carrier issues a bill of lading to a point on a connecting carrier's line, the shipper is entitled to receive the through service via any proper transfer point over the lines of any two or more motor carriers provided the proper charges are made for the services of each carrier as set forth in its tariff on file with the Commission.

[SEAL]

GEORGE B. MCGINTY, *Secretary.*

[Filed, March 14, 1936; 12:29 p. m.]

MARCH 14, 1936.

EMERGENCY FREIGHT CHARGES, 1935

Ex Parte No. 115

In the Matter of Increases in Freight Rates and Charges, 1935.

Hearings in the above-entitled proceeding will be resumed at the following places and dates:

Fort Worth, Tex., March 26, 1936, 10 a. m., central standard time, at the Texas Hotel, before Commissioner Splawn.

Boston, Mass., March 26, 1936, 10 a. m., central standard time, at the Hotel Lenox, before Commissioner Aitchison.

Salt Lake City, Utah, March 30, 1936, 10 a. m., mountain standard time, at the Utah Hotel, before Examiner Hosmer.

Atlanta, Ga., April 2, 1936, 10 a. m., central standard time, at the Atlanta Biltmore Hotel, before Commissioner Aitchison.

Minneapolis, Minn., April 3, 1936, 10 a. m., central standard time, at the Nicollet Hotel, before Examiner Hosmer.

Chicago, Ill., April 7, 1936, 10 a. m., central standard time, at the Morrison Hotel, before Commissioner Aitchison.

Washington, D. C., April 15, 1936, 10 a. m., eastern standard time, at the office of the Interstate Commerce Commission, before Commissioner Aitchison.

Persons intending to present evidence at any of the places above named, should promptly advise the secretary of the Commission at Washington of the fact, and state the number of witnesses and, if possible, their names, the approxi-

mate time which will be required for their evidence on direct examination, and the subject or commodity to which the evidence will relate. In the interest of expedition witnesses interested in the same commodity or subject should endeavor to coordinate their presentation and avoid duplication. At least 125 copies of each exhibit to be introduced should be provided for the use of the Commission, State commissions, and counsel for railroads and others. Witnesses who come with written statements of proposed testimony should be prepared with a number of additional copies for the use of the presiding officer, the official reporter, and counsel appearing at the hearing.

By the Commission.

[SEAL]

GEORGE B. MCGINTY, *Secretary.*

[Filed, March 16, 1936; 12:07 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

UNITED STATES OF AMERICA—BEFORE THE SECURITIES AND EXCHANGE COMMISSION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 14th day of March, 1936.

Commissioners: James M. Landis, Chairman; George C. Mathews, Robert E. Healy, J. D. Ross, Wm. O. Douglas.

File No. 2-1322

In the Matter of Snow Point Mining Co., Inc.

STOP ORDER

This matter coming on to be heard by the Commission on the registration statement of Snow Point Mining Co., Inc., 925-29 Market Street, Wilmington, Delaware, after confirmed telegraphic notice by the Commission to said registrant that it appears that said registration statement and the prospectus include untrue statements of material facts and omit to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading, and upon the evidence received upon the allegations made in the notice of hearing duly served by the Commission on said registrant, and the Commission having duly considered the matter, and finding that said registration statement and the prospectus include untrue statements of material facts and omit to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading, all as more fully set forth in the Commission's Findings of Fact and Opinion in this matter this day issued, and the Commission being now fully advised in the premises;

It is ordered, pursuant to Section 8 of the Securities Act of 1933, as amended, that the effectiveness of the registration statement filed by Snow Point Mining Co., Inc., 925-29 Market Street, Wilmington, Delaware, be, and the same hereby is suspended.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary.*

[Filed, March 14, 1936; 1:23 p. m.]

[For immediate release Saturday, March 14, 1936]

SECURITIES EXCHANGE ACT OF 1934

Release No. 527 (Class A)

SECURITIES AND EXCHANGE COMMISSION,

Washington.

The Securities and Exchange Commission, finding:

(1) that because of a change in the fiscal year, or for other reasons, there may be interim fiscal periods not covered by the information contained in either (a) the application for registration of any issuer of securities registered on a national securities exchange or (b) the annual report of such issuer required to be filed pursuant to Rule KA1;

(2) that it is necessary and appropriate for the proper protection of investors and to insure fair dealing in such securities as are registered on national securities exchanges

to require that information similar to that required in the form of the annual report appropriate for such issuer be filed for such interim fiscal periods; and

(3) that such information is required by the Securities and Exchange Commission to keep reasonably current the information and documents filed pursuant to Section 12 of the Securities Exchange Act of 1934;

pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 13 and 23 (a) thereof, hereby adopts the following rule:

Rule KA5. *Interim Reports*.—(a) There shall be deemed to be an interim period if either of the following conditions exists:

(1) There is an interim period between—  
(i) the fiscal period covered by the information contained in any application for registration; and

(ii) the fiscal period covered by the information required to be furnished by the registrant in the annual report required to be filed pursuant to Rule KA1.

(2) The registrant shall change its fiscal year after the close of its first fiscal year ending on or after December 31, 1935.

(b) If any registrant has heretofore changed its fiscal year since the filing of its most recent application for registration of securities, it shall, as promptly as possible after the adoption of this rule, notify the Commission of such change. Hereafter if any registrant shall change its fiscal year, it shall, within ten days thereafter, notify the Commission of such change.

(c) For each interim period of *three months or more* a separate report shall be filed. Such report shall comply with the following requirements:

(1) The interim report shall be filed not more than 120 days after the latest of the following dates: (i) December 31, 1935; (ii) the close of the interim period covered by such report; (iii) if the determination to change the fiscal year is made after the lapse of what will be the interim period, the date of such determination.

(2) The interim report shall be in the form of the annual report appropriate for such issuer, but with such changes as may be necessary because it covers a fiscal period other than a full fiscal year. It shall state clearly, on its face, the period covered thereby.

(3) If such interim period is *less than six months* the following additional rules shall also apply:

(i) The financial statements need not be certified.

(ii) If the financial statements are not certified, the registrant shall file with its next annual report certified financial statements covering the interim period.

(d) For each interim period of *less than three months*, no separate report need be filed. In such case, however, the following requirements shall be met:

(1) The next annual report of the registrant shall cover the period from the beginning of the interim period to the close of the following full fiscal year.

(2) The balance sheets required to be furnished shall be as of the close of the full fiscal year. However, separate balance sheet schedules shall be furnished (i) for the interim fiscal period; and (ii) for the full fiscal year. Balance sheets as of the close of the interim period need not be furnished.

(3) Separate profit and loss statements shall be furnished (i) for the interim fiscal period; and (ii) for the full fiscal year.

Certified to be a true copy of the original.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[Filed, March 14, 1936; 1: 23 p. m.]

UNITED STATES OF AMERICA—BEFORE THE SECURITIES AND EXCHANGE COMMISSION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13th day of March 1936.

Commissioners: James M. Landis, Chairman; George C. Mathews, Robert E. Healy, J. D. Ross, William O. Douglas.

File No. 32-6

In the Matter of The Declaration of Montana-Dakota Utilities Co. (Pursuant to Section 7 of the Public Utility Holding Company Act of 1935.)

ORDER FIXING DATE FOR DECLARATION TO BECOME EFFECTIVE

Montana-Dakota Utilities Co., a corporation organized under the laws of the State of Delaware and a registered holding company, having filed with the Commission pursuant to Section 7 of the Public Utility Holding Company Act of 1935 a declaration regarding the issuance and sale of the following securities: 149 Shares of its Seven Per Cent Series Preferred Stock, 17 Shares of its Six Per Cent Series Preferred Stock, and 7,372 $\frac{1}{2}$  Shares of its Common Stock; a hearing on said declaration having been duly held pursuant to due and timely notice; said declaration having been amended; and the record in this matter having been duly considered and the Commission having adopted as its findings the findings of the Trial Examiner as set out in his report and being of the opinion that the requirements of Section 7 have been complied with for the reasons set out in such findings;

It is ordered that said declaration, as amended, be and become effective on March 13th, 1936, on condition that such declaration shall not be deemed to be effective with respect to the issuance of such securities if the terms and conditions under which such securities are issued and sold by the declarant shall fail in any respect to be in substantial compliance with the terms and conditions of such amended declaration.

It is further ordered that, promptly upon the issuance and sale of the aforesaid securities, declarant shall file with the Commission copies of such securities and shall notify the Commission that the terms and conditions under which such securities are issued and sold by the declarant have not failed in any respect to be in substantial compliance with the terms and conditions of such amended declaration.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[Filed, March 14, 1936; 1: 24 p. m.]

UNITED STATES OF AMERICA—BEFORE THE SECURITIES AND EXCHANGE COMMISSION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 13th day of March 1936.

Commissioners: James M. Landis, Chairman; George C. Mathews, Robert E. Healy, J. D. Ross, William O. Douglas.

File No. 36-12

In the Matter of The Application of Montana-Dakota Utilities Co. (Pursuant to Section 10 of the Public Utility Holding Company Act of 1935.)

ORDER APPROVING ACQUISITION OF ASSETS

Montana-Dakota Utilities Co., a corporation organized under the laws of the State of Delaware and a registered holding company, having filed with the Commission pursuant to Sections 10 (a) (2) and 10 (a) (3) of the Public Utility Holding Company Act of 1935 an application for approval of the acquisition by it of the following utility assets or any other interest in business:

All property and assets of Montana-Dakota Power Company, a Delaware corporation and a subsidiary of the applicant, subject to the liabilities of said subsidiary, and

All property and assets of Montana Cities Gas Company, a Delaware corporation and a subsidiary of the applicant, subject to the liabilities of said subsidiary;

a hearing on said application having been duly held pursuant to due and timely notice; said application having been amended; and the record in this matter having been duly considered and the Commission having adopted as its find-

ings the findings of the Trial Examiner as set out in his report and being of the opinion that the requirements of Section 10 have been complied with for the reasons set out in such findings;

It is ordered that such acquisition be and the same is hereby approved, on condition that the terms and conditions of such acquisition shall be in substantial compliance with the terms and conditions of said amended application.

It is further ordered that, promptly upon such acquisition, the applicant shall notify the Commission that the terms and conditions of said amended application have been so complied with and that all proceedings necessary to such acquisition have been completed.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[Filed, March 14, 1936; 1:25 p. m.]

[For immediate release Saturday, March 14, 1936]

SECURITIES EXCHANGE ACT OF 1934

Release No. 528 (Class A)

SECURITIES AND EXCHANGE COMMISSION,  
Washington.

The Securities and Exchange Commission, deeming it necessary and appropriate in the public interest and for the protection of investors, and necessary for the execution of the functions vested in it, to exempt from the provisions hereinafter mentioned of the Securities Exchange Act of 1934 the following securities, for the period hereinafter stated and upon the terms and conditions hereinafter specified, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 3 (a) (12), 10 (b), and 23 (a) thereof, hereby adopts the following rule:

**RULE AN20. Temporary exemption from Sections 12 (a) and 7 (c) (2) of certain securities evidenced by the same instrument as a listed security; prohibition of use of manipulative or deceptive devices or contrivances with respect thereto.** (a) Any other security evidenced by the same instrument as a listed security at the time the latter became or becomes a listed security, except any security created in the same transaction as such listed security, shall be exempt from the operation of Section 12 (a) to the extent necessary to render lawful the effecting of transactions therein on the exchange on which such listed security was listed, until registration pursuant to Section 12 (b), (c), and (d) shall become effective as to such other security, or until the date specified below, whichever shall first occur. For the purposes of this rule, the word "listed" means listed on a national securities exchange as a security registered pursuant to Sections 12 (b), (c), and (d), or as a security exempted from the operation of Section 12 (a).

(b) The exchange upon which each such listed security was listed shall advise the Commission of any information with respect to the existence of any such other security, promptly after acquiring knowledge thereof.

(c) Such exemption shall terminate as to any such other security at the close of business on the tenth day following the dispatch, to such exchange and to the issuer of such listed security, of notice of the entry of an order (to be entered after appropriate notice and opportunity for hearing to the exchange and to such issuer) finding that such other security exists; provided, however, that such termination of the exemption afforded by this rule in such manner shall not affect any exemption accorded by any other rule.

(d) Any security exempted from the operation of Section 12 (a) by paragraph (a) of this Rule shall be exempt from the operation of Section 7 (c) (2) for the period specified

in paragraph (c) of this Rule, to the extent necessary to render lawful any direct or indirect extension or maintenance of credit on such security or any direct or indirect arrangement therefor which would not have been unlawful if such security had been a security (other than an exempted security) registered on a national securities exchange.

(e) The term manipulative or deceptive device or contrivance, as used in Section 10 (b), is hereby defined to include any act or omission to act with respect to any security exempted from the operation of Section 12 (a) by paragraph (a) of this Rule which would have been unlawful under Section 9 (a), or any rule or regulation heretofore or hereafter prescribed thereunder, if done or omitted to be done with respect to a security registered on a national securities exchange, and the use of any means or instrumentality of interstate commerce or of the mails or of any facility of any national securities exchange to use or employ any such device or contrivance in connection with the purchase or sale of any security exempted by paragraph (a) of this Rule from the operation of Section 12 (a) is hereby prohibited.

The above Rule shall become effective March 13, 1936.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[Filed, March 16, 1936; 12:22 p. m.]

UNITED STATES BOARD OF TAX APPEALS.

AMENDMENT TO RULES OF PRACTICE BEFORE THE UNITED STATES  
BOARD OF TAX APPEALS

Authority:

Rules of Practice and Procedure prescribed pursuant to the authority of section 907 (a) of the Revenue Act of 1924, as added by section 1000 of the Revenue Act of 1926 (44 Stat. 9, 105), as amended by section 601 of the Revenue Act of 1928 (45 Stat. 791, 871).

Section 909 (a) (2) of the Revenue Act of 1924, as added by section 1000 of the Revenue Act of 1926 (44 Stat. 9, 105).

**RULE 47.—DEPOSITIONS UPON WRITTEN INTERROGATORIES**

(As Amended February 28, 1936)

Depositions may be taken in the discretion of the Board upon written interrogatories in substantially the same manner as provided in rules 45 and 46 for depositions upon oral examinations. An original and five copies of the interrogatories must be filed with the application. The clerk will serve one copy of the application and of the interrogatories upon the opposite party. If the opposite party desires to file objections or cross-interrogatories, he must do so within ten days after the application and interrogatories have been served upon him. Cross-interrogatories must consist of an original and five copies. The clerk will serve one copy thereof upon the opposite party who, if he has any objection thereto, must file his objections within ten days thereafter. No objections to the interrogatories or cross-interrogatories will be considered at the hearing unless timely filed in accordance with this rule.

No person other than the witness, a stenographic reporter, and the officer taking the deposition upon written interrogatories and cross-interrogatories shall be present at the examination of the witness. This fact shall be certified by the officer taking the deposition. That officer shall propound the interrogatories and cross-interrogatories to the witness in their order and reduce the testimony to writing in the witness's own words.

Depositions obtained in foreign countries must be taken upon written interrogatories, except as otherwise directed by the Board for cause shown.

EUGENE BLACK,

*Chairman, U. S. Board of Tax Appeals.*

[Filed, March 13, 1936; 12:34 p. m.]